

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

CAROLYN SCHAUPP,

Defendant.

Case No. 1:23-cv-00755-ADA-SAB

ORDER DENYING DEFENDANT'S
REQUEST FOR ENTRY OF DEFAULT

(ECF No. 13)

Defendant removed this action from state court on May 15, 2023. (ECF No. 1.) On June 9, 2023, the Court issued findings and recommendations that this action be remanded to state court. (ECF No. 5.) The recommendations are still pending. On June 14, 2023, Defendant filed a notice of interlocutory appeal. (ECF No. 7.) Currently before the Court is Defendant's request for entry of default, filed on August 17, 2023. (ECF No. 13.)

Entry of default is appropriate as to any party against whom a judgment for affirmative relief is sought that has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure and where that fact is made to appear by affidavit or otherwise. Fed. R. Civ. P. 55(a). After entry of default, the plaintiff can seek entry of default judgment. Fed. R. Civ. P. 55(b)(1) and (2). "Default judgments are generally disfavored, and whenever it is reasonably possible, cases should be decided upon their merits." In re Hammer, 940 F.2d 524, (9th Cir.

1991) (internal punctuation and citations omitted).

Based on a review of the docket in this action, which was removed from state court by the Defendant, Defendant is not entitled to entry of default.

Accordingly, IT IS HEREBY ORDERED that Defendant's request for entry of default (ECF No. 13) is DENIED.

IT IS SO ORDERED.

Dated: August 18, 2023


UNITED STATES MAGISTRATE JUDGE